

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

-v-

ALEXANDER ARGUEDAS,

Defendant.

20-CR-135-1 (JMF)

ORDER

JESSE M. FURMAN, United States District Judge:

On June 20, 2024, the Court issued a Memorandum Opinion and Order denying Defendant Alexander Arguedas’s *pro se* motion, pursuant to 18 U.S.C. § 3582(c), for compassionate release. ECF No. 796. On August 8, 2024, the Court received a *pro se* motion for reconsideration of that Memorandum Opinion and Order and a *pro se* motion for “a status report concerning his pending Rule 41(g) motion” seeking certain property, copies of which are attached.

Defendant presents no valid grounds for reconsideration. *See, e.g., Analytical Survs., Inc. v. Tonga Partners, L.P.*, 684 F.3d 36, 52 (2d Cir. 2012) (“It is well-settled that [a motion for reconsideration] is not a vehicle for relitigating old issues, presenting the case under new theories, securing a rehearing on the merits, or otherwise taking a second bite at the apple. Rather, the standard for granting a . . . motion for reconsideration is strict, and reconsideration will generally be denied unless the moving party can point to controlling decisions or data that the court overlooked.” (cleaned up)). Accordingly, the motion for reconsideration is DENIED as meritless.


As for the “motion requesting a status report”: The Court has no record of any motion for the return of property pursuant to Rule 41(g) of the Federal Rules of Criminal Procedure.

The Clerk of Court is directed to mail a copy of this Order to:

Alexander Arguedas
Register No. 87944-054
USP Coleman I
Federal Correctional Institution
P.O. BOX 1033
Coleman, FL 33521

SO ORDERED.

Dated: August 9, 2024
New York, New York


JESSE M. FURMAN
United States District Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Alexander Arguedas Petitioner, v. United States of America (AUSA: Andrew Ken-Wei Chan) Respondents.	} 20-cr-135-JMF. } Honorables: Jesse } M. Furman, USDT } July 1st, 2024.
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PETITIONER: ARGUEDAS'S MOTION FOR RECONSIDERATION
THIS COURT'S JUNE 20, 2024 MEMORANDUM OPINION
AND ORDER DENYING DOCUMENT 775 AND ARGUEDAS'S
REPLY IN OPPOSITION TO ARGUEDAS'S MOTION UNDER:
18 U.S.C. § 3582 (a)(1)(A)(i), FIRST STEP ACT OF 2018,
SECOND CIRCUIT'S CAMPBELL, __ F. App'x 2022 WL 199954,
AT ¶ 2 (2d cir. Jan. 22, 2022), AND NEWLY RETROACTIVE
USSG AMENDMENT 814, USSG §§ 1B1.13(b)(5) + (6)

Affidavit of Arguedas, via: 28 U.S.C. § 1746, under Penjurx,
the above & following to be true, correct and complete
Prose.

Legal standard

- [1] "motions for reconsideration exist to 'correct
manifest errors of law or fact or to present
newly discovered evidence.'" Mid-Am. Salt
LLC v. Morris Cty. Coop. Pricing Council,
964 F.3d 218, 230 (3d cir. 2020) (quoting
Hansco Corp. v. Zlotnicki, 779 F.2d 906, 909
(3d cir. 1985)). A court may grant a motion for

reconsideration if the moving Party shows one of the following:

[2]

1. an intervening change in the controlling law;

See: USSC's USSG Amendment: 814, USSG Section 1B1.13(b)(5) Modified "Other Reasons" Category, This broad catchall provision is retained in the amendment and gives courts the ability to consider other reasons similar in gravity to those enumerated.

It makes clear that courts have both discretion and guidance necessary to grant reductions in cases with reasons similar in gravity to those already considered in any appropriate case.

Also see USSG Section 1B1.13(b)(6): Amendment: 814, New "Unusually Long Sentences" Category. This amendment responds to a circuit split concerning whether changes in law (including amendments to the Guidelines manual that have not been made retroactive) may be considered in ruling on a sentence reduction motion.

The amendment permits the consideration of such changes in law when a defendant has served 10 years and an intervening change in law would have resulted in a shorter sentence had it been in place at the time of sentencing.

[3] As seen in Arguedas's Grounds 1-8, see specifically Court's Memorandum Opinion and order dated June 20, 2024, Page 2.

However, this court held that Grounds: 7, the defendant's young age at the time of the murder, and his post-sentencing rehabilitation; (which contains two separate extraordinary and compelling reasons) and Ground: 8 the defendant's sentence of (32½ years) 390 months' imprisonment was longer than the average sentence for murder imposed in federal court, and his sentence was otherwise greater than necessary to satisfy the purposes of 18 U.S.C. section 3553(a), which again within ground 8 contains two separate but related issues. Total 4 issues which would include Disparity in sentencing as a Fifth (5th) issues of presented "extraordinary and compelling reasons" for this court to reconsider in-light of the USSC's Amendment 814, USSG § 1B1.13(b)(5) & (6), supra.

[4] Please note for this court's public Record, No Where in its June 20th, 2024's Memorandum Opinion and order does it acknowledge USSC's

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NOV. 1st, 2023 Newly retroactive changes in USSC's Amendments §14, USSC § 1B1.13-(b)(5) modified "other Reasons" category, and USSC § 1B1.13(b)(6) Amendment §14, New "Unusually Long Sentences" category went retroactive on February 1st, 2024. Which would allow all Grounds 1-8, to be reconsidered by this Honorable Court.

[5] see subsection 2. the availability of New evidence (USSC Amendments §14, USSC's Sections 1B1.13(b)(5)+(6), supra; that was not available when the court issued its order; or

3. the need to correct a clear error of law (Amendment §14, USSC Sections 1B1.13(b)(5)+(6) or fact or to prevent manifest injustice.

Johnson v. Diamond State Port Corp.
50 F. App'x 554, 560 (3d Cir. 2002)
[quoting Max's Seafood Café v.
Quinterous, 176 F.3d 669, 677
(3d Cir. 1999)].

[6] Finding that a Judgment may be altered or amended if the party seeking reconsideration shows at least one of the above grounds.

[7] Moreover, this court incorrectly stated in its June 20, 2024 Memorandum Opinion And order on page 3 bottom paragraph that:

"Ultimately, however, the court does not need to decide whether there are 'extraordinary and compelling reasons' warranting a sentence reduction because, even if there were, a reduction would not be 'consistent with' the Section 3553(a) factors."

[8] This court should also consider USA v. Kibble, 992 F.3d 326, 334 (4th Cir.) (Gregory, C.J., concurring) ("section 3582(c)(1) permits a district court to reduce a sentence in 'any case'... not just cases involving low-level or non-violent offenses"). As stated above, Congress gave the district courts largely unconstrained discretion to grant compassionate release. Indeed, in the absence of an applicable policy statement then, however now USSC's USSG Amendment: 814, USSG § 1B1.13(b)(5)+(6) Now allows district court's to consider other extraordinary & compelling reasons such as changes in law and USSG's, to reduce a sentence.

[9] Congress has stated plainly in a separate statute authorizing the Sentencing Commission to issue general policy statements that has already did so and made retroactive on Feb. 1st, 2024 USSC Amendment § 14, USSC § 1B1.3(b)(5)+(6).

[10] See Ruvalcaba, 26 F.4th at 26 (rejecting the government's argument that the FSA prohibited district courts from considering non-retroactive changes in sentencing law because of Congress's clear language regarding limitations on the court's discretion); see Kibble, 992 F.3d at 334 (Gregory, C.J., concurring) ("I recognize the breadth of 18 U.S.C. § 3582 (c)(1)'s text not to discount the seriousness of some criminal offenses, but to give effect to the policy choice that Congress made plain: when extraordinary and compelling circumstances exist, even the most serious offenders may be eligible for mercy").

[11] As stated above, nowhere has Congress expressly prohibited district courts from granting compassionate release on the basis of an underlying offense. Instead Congress has provided the district courts with guidance to consider

an underlying offense within the appropriate framework of applicable 3553(a) sentencing factors. See 18 U.S.C. § 3582(c)(1)(A) (noting that the court is directed to "consider[] the factors set forth in [18 U.S.C.] section 3553(a) to the extent they are applicable").

[2] As relevant here, the section 3553(a) factors include "the nature and circumstances of the offense and the history and characteristics of the defendant" 18 U.S.C. § 3553 (a)(1).

But, neither this provision nor any provision in the First Step Act indicates that Congress intended to deny the possibility of a sentence reduction to a defendant because of the underlying offense of conviction.

See USA v. Greene, 516 F.Supp.3d 1, 24 (D.D.C. 2021) ("the severity of the offense of conviction is only one aspect of the nature and circumstances analysis"). Indeed district courts throughout the country have routinely granted compassionate release to petitioners after appropriately considering their underlying convictions, as Congress directed, in the context of the petitioner's "history and characteristics" and in light of other applicable factors. See, e.g., USA v. Greene, 516 F.Supp.3d 1, 24 (D.D.C. 2021) (granting compassionate release,

finding that "Notwithstanding the seriousness of offenses," including five counts of armed robbery and five counts of using a firearm in furtherance of a crime of violence, "he was only 21 years old at the time of their commission"; USA v. Evans, 504 F.Supp.3d 519, 529 (E.D.Va. 2020) (granting compassionate release and noting that "even though the seriousness of [defendant's] offense weighs against release, the Court finds that the length of [defendant's] combined state and federal sentence substantially mitigates this factor," when defendant had committed armed bank robbery); USA v. Golding, NO. 05-CR-538 (JSR), 2022 WL 2985014, at *5 (S.D.N.Y. July 27, 2022) (granting compassionate release, finding that "despite the seriousness of Golding's offense," which included using firearms to commit a murder in furtherance of a conspiracy, "a 10% sentence reduction [was] appropriate in light of the factors set forth in Section 3553(a)").

[13] As these cases indicate, the district court's conclusion that Argüedas's underlying offenses and offenses he committed while under the age of 25 which the Supreme Court held that the male brain does not mature until after age 25, holding

defendant's less culpable, allowing courts to reconsider handing down particularly harsh sentences. Thus, according to the Supreme Court, and newly retroactive USSG Amendment 814, USSG § 1B1.13(b)(5)+(6), along with Supreme Court's Concepcion and Second Circuit's Campbell, as well as the First Step Act of 2018, allows this court to reduce Arguedas's sentence.

- [14] Arguedas, was barely a teenager during most of his conduct, and under the age of 25 years old. Courts, including the Supreme Court, have repeatedly recognized that young people as (Arguedas then was) are both less culpable for their actions and more likely to reform. See Miller v. Alabama, 567 U.S. 460, 472 (2012) (Juveniles' "transient rashness, proclivity for risk, and inability to assess consequences" mean they are less culpable and that they are more likely to reform (quotations omitted)).
- Roper v. Simmons, 543 U.S. 551, 569 (2005) ("[J]uveniles are more vulnerable or susceptible to negative influences and outside pressures, including peer pressure").

[15] Courts often consider a defendant's young age (Arguedas's age _____ when the most serious conduct occurred) at the time of the offense conduct - as compared to the overall time period for which the defendant has been incarcerated in evaluating and granting compassionate release motions. See McCoy, 981 F.3d at 286 (finding the district court permissibly treated sentence severity as an "extraordinary and compelling factor" and appropriately considered defendants' youth at the time of the offenses. from 19-25 years old). See USA v. Ezell, No. 02-815-01, 2021 WL 510293, at *7 (E.D. Pa. Feb. 11, 2021) (finding defendant's "relative youth at the time of his offenses - 22 years old" and lack of youth guidance supported conclusion that he had "aged out of violent crimes" warranting compassionate release. See also USA v. Jones, 482 F. Supp.3d 269, 985 (N.D. Cal. 2020) same.

CONCLUSION

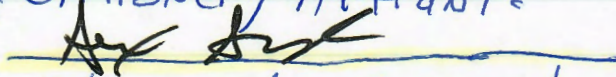
WHEREFORE, for all of the above specifically stated reasons petitioner: Arguedas most respectfully request the following relief from this Honorable Court:

VACATE, this Court's June 20th, 2024 Memorandum
Opinion and order;

GRANT, Arguedas's 18 U.S.C. § 3582 (C)(1)(A)(i)
First Step Act of 2018, Amendment § 14
USSG §§ 1B1.13 (b)(5) & (6) Motion;

Signed under 28 U.S.C. § 1746, under perjury,
the above and following to be true,
correct and complete. Pro-Se:

Respectfully Submitted by
Petitioner/Affiant:


Alexander Arguedas
87944-054
USP Coleman I
P.O. Box 1033
Coleman, Florida
33521

Certificate of Service

I Petitioner: Arguedas, hereby certify that this motion to reconsider was sent via: U.S. mail / postage prepaid on this 1st, day of July, 2024, to the following:

Clerk of Courts
U.S. District Court
U.S. Courthouse
500 Pearl Street
New York, New York
10007.

AUSA: Andrew K. Chan
U.S. Attorney's Office
Southern District of N.Y.
One St. Andrew's Place
New York, N.Y.
10007.

Alex Arguedas
Alexander Arguedas

Thank you!

A/alex

87944-054

leal correctional complex
ited states Penitentiary

SP) Coleman I.

30. Box 1033

oleman, Florida

33521.



Clerk of courts
U.S. District court
U.S. courthouse
Southern District
of New York
500 Pearl Street
New York, New York
10007.

ee: 20-cr-135-JMF
(S.D.N.Y.)

onable: Jesse M. Furman,
USDJ.

otion to Reconsider"

July 1st, 2024.

Tampa/St. Pete FL 336
MON 29 JUL 2024 PM

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Alexander Arguedas
petitioner,

v.

United States of America
Respondents.

20-cr-135-FURMAN.

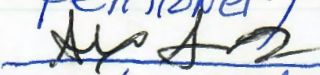
Honorable: Furman, USDT.

July 1st, 2024.

PETITIONER: ARGUEDAS'S MOTION REQUESTING
A STATUS REPORT CONCERNING HIS
PENDING RULE 41(G) MOTION SEEKING
HIS PROPERTY 2, I-PHONES

Signed under 28 U.S.C. § 1746, Under perjury the above
and following to be true correct + complete. Pr-se.

Respectfully submitted by
petitioner / Affiant:


Alexander Arguedas

87944-054

USP Coleman I.

P.O. Box 1033

Coleman, Florida

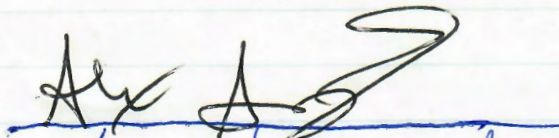
33521.

Certificate of Service

I, Petitioner: Arguedas, hereby Certify
that I have sent this Motion
Via: U.S. Mail/postage prepaid on
this 1st day of July, 2024
to the following:

Clerk of courts
U.S. District Court
U.S. Courthouse
500 Pearl Street
New York, New York
10007.

U.S. Attorney's
Office S.D.N.Y.
1 St. Andrew's Plaza
New York, N.Y.
10007.


Alexander Arguedas

Thank you!

2.

Alexander Arguedas
87944-054
Federal correctional complex
United States Penitentiary
(USP) Coleman I.
P.O. Box 1033
Coleman, Florida
33521.

Case No. 20-CR-135-JMF
(S.D.N.Y.)
Honorable: J.M. Furman, USDT,
"Status Report Request of Rule 41(g) Mot."

July 1st, 2024.

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Clerk of courts
U.S. District court
U.S. courthouse
500 Pearl Street
New York, N.Y.
10007.



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